



U.S. Department
of Transportation
**Federal Aviation
Administration**

Great Lakes Region
Illinois, Indiana, Michigan,
Minnesota, North Dakota,
Ohio, South Dakota,
Wisconsin

2300 East Devon Avenue
Des Plaines, Illinois 60018

POLICY AND PROCEDURES MEMORANDUM - AIRPORTS DIVISION

NUMBER: 5050.1
Supplement No. 1

DATE: OCT 08 1997

SUBJECT: Processing Environmental Documents under the National
Environmental Policy Act - Contractor Selection Procedures

CANCELLATION: October 1, 1998 (unless subsequently modified)

REFERENCE: 1. AC 150/5100-14C, Architectural, Engineering, and
Planning Consultant Services for Airport Grant
Projects

APPENDIX 1. Resolution of Comments

2. Sample Letter of Selection

3. Revised Figure 6A. Flowchart for Selection of Sponsor
EIS Contractor, PPM 5050.1, dated October 1, 1993

4. Selected References, AC 150/5100-14C dated February
16, 1994

1. Background

This supplement has been prepared to update the material provided in paragraph 6e of PPM 5050.1, to incorporate reference to FAA Advisory Circular 150-5100-14C; and to delegate contractor selection authority to the Manager-Airports District Office. The Manager-Airports District Office is the responsible federal official.

The development process of this supplement is also intended to provide an opportunity for field managers and employees to comment on the procedure and these comments will be documented by Appendix.

The National Environmental Policy Act (NEPA) requires that a Federal agency either prepare its environmental Impact Statement (EIS) or select a contractor to prepare the EIS. As outlined in FAA Advisory Circular 150/5100-14C, *Architectural Engineering and Planning Consultant Services for Airport Grant Projects*, dated February 16, 1994, the following procedural guidance is provided to FAA Airports Division-Great Lakes Region personnel regarding selecting a consultant to prepare an EIS or an environmental assessment that has the potential to develop into an EIS. It is very important that the FAA be actively involved in the total contractor selection process for the preparation of an EIS.

Distribution: AGL-600/601/602/603/610/620
ADOs -BIS/-CHI/-DET/-MSP
All State Directors (Information through ADOs)

Originator: AGL-610

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5. Appendix 2 - Sample Letter of Selection

It is now mandatory that the FAA send a letter to the airport owner announcing both the first and second choice selections for the EIS. We question that the FAA has to identify any other than the first choice selection to the airport owner. The second and/or third place contractor would only be identified by the FAA if an agreement has not been reached by the airport with his first choice selection.

Response:

AC 150/5100-14C, paragraph 2-10e states the FAA will "...evaluate and rank the consultants on the preselection list in order of preference..." The sample letter in Appendix 2 is following this AC guidance. This will save having to return to FAA if successful negotiations are not concluded with the "first" choice.

6. Background

We welcome the delegation of contractor selection authority to the Airport District Office (ADO) Manager. We assume that the Sample Letter of Selection (in Appendix 2) that is to be sent to the airport sponsor will be sufficient documentation of the ADO Manager's actual selection of the contractor. Is there any requirement that the Airports Division Manager or the Manager of the Planning/Programming Branch have to be notified or sent a copy of the selection letter sent to the airport sponsor?

The next to last sentence of this section of the PPM indicates that the PPM applies to the preparation of an EIS or "other documents". Please clarify what "other documents" are meant by the reference. Does this mean other documents associated with the EIS, e.g., the Record of Decision? In the next section reference is made that it includes findings of no significant impact and any related documents.

Response:

Sending out the Letter of Selection should be sufficient documentation of consultant selection. There is no requirement to send the Airports Division Manager or the Manager of the Planning/Programming Branch a copy of the letter. "Other documents" has been replaced with "environmental assessment". If an EA is likely to develop into an EIS instead of a FONSI, then the Manager-Airports District Office is the authority to select the consultant.

7. Delegation of Authority:

The second line of the first sentence appears to expand the application of the ADO selection of contractors to include preparation of all findings of no significant impact. This should be clarified to state that the selection would only be for environmental assessments that have the potential to become an environmental impact statement. This approach has been used where a mitigated FONSI is possible or where we wanted to have the sponsor take its proposed development project to the public as its own before processing it as an EIS.

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Appendix 1
Resolution of Comments

The Bismarck ADO and AGL-620 had no comments.

Chicago ADO Comments

1. The Illinois Division of Aeronautics noted in their review of the draft PPM that they do not find anything in conflict with the way EIS procedures are currently being handled between the Chicago ADO, the State of Illinois, and the Airport Sponsor.

Response:

None necessary.

2. Paragraph #2, Delegation of Authority

While it is well for the ADO Manager to be the approving official for contractor selection for EIS's, we question the statement that the ADO Manager is also the approving official for contractor selection for FONSI's. We do not believe FONSI's should be on the same level as EIS's and question the need for the ADO Manager's involvement in contractor selection of FONSI's.

Response:

This paragraph is clarified to state that if an Environmental Assessment is likely to develop into an EIS, then the authority to select the contractor rests with the Manager-Airports District Office.

3. The wording of the last sentence in this paragraph is poor, "the letter of selection shall include the recommendation of the program manager and reference the selection assistance of the airport owner." We recommend that words "selection assistance of the airport owner" be changed to "concurrence of the airport manager".

Response:

The wording "selection assistance of the airport owner" is more encompassing than "concurrence of the airport manager." Selection assistance can cover a myriad of things ranging from printing the request for proposal, to interviewing and short listing, to negotiating project fees, etc.

4. Paragraph #3: Policy and Procedure

The first sentence of paragraph 2 states that "the airport owner is responsible for any interviewing involved in the process and the FAA will not normally participate". We question the word "normally". The airport staff is always responsible for interviewing of contractors. The FAA never interviews a contractor, in lieu of the airport owner. This also follows procedures previously set up in FAA Advisory Circular 5100-14C.

Response:

The Great Lakes Region as a general rule has not in the past nor does it intend in the future to be involved in the contractor interview process.

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Response:

Sending out the Letter of Selection should be sufficient documentation of consultant selection. There is no requirement to send the Airports Division Manager or the Manager of the Planning/Programming Branch a copy of the letter. "Other documents" has been replaced with "environmental assessment". If an EA is likely to develop into an EIS instead of a FONSI, then the Manager-Airports District Office is the authority to select the consultant.

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In the next to last sentence of the first paragraph of this section reference is made to the "FAA's local program manager responsible for the environmental planning phase of the project." Please put in parentheses, i.e., (the Responsible Federal Official) following this phrase in the sentence.

The last sentence of the first paragraph of this section should direct the reader to Appendix 2 of this PPM entitled "SAMPLE LETTER OF SELECTION".

The second paragraph of this section should explain the differences between this revised flow chart and that currently found in PPM 5050.1, Figure 6A.

Response:

The wording has been changed to state the Manager-Airports District Office has the authority for contractor selection for environmental assessments that have the potential to develop into an EIS.

The responsible federal official is the Manager-Airports District Office, parenthetical phrase not added.

Reference to Appendix 2 has been added.

An explanation of the changes to Figure 6A has been added.

8. Policy and Procedure

The Draft PPM states that "the FAA will not normally participate" in the interview process, while Paragraph 2-10 of Advisory Circular 150/5100-14C states that the FAA will be invited to participate with the sponsor in the interviews. It may give the impression that we don't want to be involved in the selection process. It may be better to say "the FAA may, but is not required to, participate" in the interview process. If the sponsor's staff has never selected a consultant for preparation of an EA or an EIS, it may be in our best interest to participate in the interviews.

In line 42 on page 2 of the PPM supplement, change the phrase "...advise the airport owner of the final selection." to "...advise the airport owner of the FAA's final selections." This makes it clear that it is FAA making the final decision. Also, the airport owner is to be notified of FAA's first and second choices for negotiation purposes.

Response:

It is the intent to have FAA participate in the interview process only on an exception basis. FAA normally will not become involved; this is primarily the sponsor's responsibility.

The editorial changes will be made to line 42.

9. Administrative Record

The last sentence should be clarified to read, "This part of the administrative record will be maintained by the ADO and not by the contractor."

Response:

Words changed saying the ADO will keep this part of the administrative record.

10. Appendix 2 - Sample Letter of Selection

It is a good idea to select both first and second choices. We've always assumed that it would be possible to negotiate successfully with the first choice but this may not always be the case.

Response:

None necessary.

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11. Appendix 3 - Revised Figure 6A Flowchart for Selection of Sponsor EIS Contractor

The flow chart seems to emphasize utilization of "the local, conventional, professional consultant selection process", while paragraph 2-10 state "The sponsor and the FAA shall follow the selection procedures recommended in paragraph 2-8 with the following exceptions: . . ." that are listed in Paragraph 2-10. It should be clarified that the local process must be equivalent to those in the Advisory Circular for selection of an EIS contractor, while for an environmental assessment the procedures are only recommended.

Response:

Clarification has been added to the second paragraph under Delegation of Authority.

12. Appendix 4 - Selected References, FAA Advisory Circular 150/5100-14C, dated February 16, 1994.

It appears that Paragraphs 2-7 and 2-8 should be included along with paragraph 2-10. The latter, paragraph 2-10 states that the FAA and the sponsor shall follow the selection procedures recommended in Paragraph 2-8 with the exceptions listed in Paragraph 2-10, to be used where preparation of an EIS is contemplated.

Response:

Paragraphs 2-7 and 2-8 have been added to the Appendix.

Minneapolis ADO Comment:

13. Policy and Procedures, line 38, says "FAA will not normally participate". Lines 4 & 5 same page states "It is very important that the FAA be actively involved in the total contractor selection process for the preparation of an EIS." AC 150/5100-14C, paragraph 2-10c. states "The FAA will be invited to participate with the sponsor in the interviews with consultants on the preselection list." We suggest the wording on line 38 be rewritten to be consistent with the spirit and intent of the EIS selection procedures.

Response:

The FAA normally does not participate in the interview of potential contractors, this is the responsibility of the airport owner. The sponsor can always invite the FAA to participate in the interviews, but from a procedural and resource management standpoint, this region chooses not to participate. In addition, we have no evidence indicating there is any "value added" by a specific FAA presence during interviews.

Detroit ADO Comments:

14. Appendix 4: Paragraph 2.10a - Recommend the wording be revised similar to lines 32-35 of Section 3, Policy and Procedures.

Response:

Appendix 4 is wording direct from AC 150/5100-14C.

15. Appendix 4: Paragraph 2-10h - Recommend working be revised to read "The FAA shall document its files for the administrative record."

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Response:

Appendix 4 is wording direct from AC 150/5100-14C.

16. Does this PPM prevent a state agency from selecting the environmental contractor? The State of Michigan currently selects the environmental contractor for all EA's. They also make the final recommendation for the EIS contractor.

Response:

No, however, if there is potential for the EA developing into an EIS, then the Manager-Airports District Office selects the contractor. If the rare situation develops in which an EA that was not initially contemplated to be an EIS develops into same, for unforeseen reasons, we do not contemplate a new selection process solely so that FAA can "select" the contractor. We do not believe that in this type case that selection by another governmental body, such as the state of Michigan, will be a "fatal flaw" in the process.

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APPENDIX 2
SAMPLE LETTER OF SELECTION

[NAME AND ADDRESS OF SPONSOR]

Dear [Sponsor Representative]:

[subject]

We have evaluated your submittal dated _____ containing the recommendation and ranking of consultants interviewed to conduct ____ [name of project] ____.

Based on our evaluation, we have ranked the consultants and select ____ [consultant] ____ as first choice and ____ [consultant] ____ as the second choice to conduct ____ [name of project] ____.

We ask that you initiate discussions with ____ [first choice consultant] ____ to determine the necessary fees required to accomplish the approved work scope for the project. Please forward this information within thirty days to ____ [FAA program manager] ____ so that FAA can make a "reasonableness determination."

If an agreement is not possible with ____ [first choice consultant] ____ (first choice), we ask that you initiate discussions with ____ [second choice consultant] ____ (second choice).

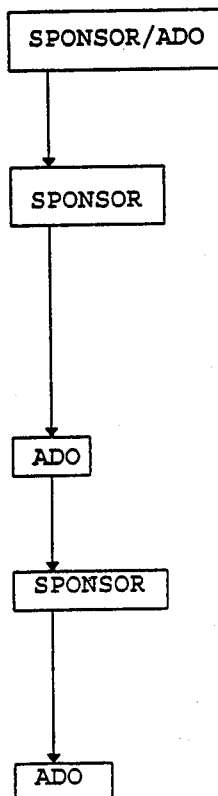
[Signed]

[ADO Manager]

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APPENDIX 3
REVISED FIGURE 6A
FLOWCHART FOR SELECTION OF SPONSOR EIS CONTRACTOR



Executes Memorandum of Understanding regarding the selection process and scope of work

Utilizes its local, conventional, professional consultant selection process that is equivalent to the requirements of AC 150/5100-14C to develop the short list. The short list and recommendations are submitted to the ADO.

Evaluates and selects the first and second choice consultants to do the work.

Utilizes the local, conventional, professional consultant negotiation process to determine necessary fees for the approved scope of work. Forwards the results to the ADO.

Prepares selection report per para. 2-10h of Appendix 4.

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APPENDIX 4

Selected References, FAA Advisory Circular 150/5100-14C, dated February 16, 1994

2-7. SELECTION CRITERIA.

Prior to evaluating consultants, it is recommended that the sponsor's organization develop an agreed-upon list of criteria to be used in evaluating potential consultants. Numerical rating factors (ranges) should be assigned to each criterion on the basis on the sponsor's priorities and conception of the importance of each factor in the attainment of a successful project. Suggested criteria, but are not limited to the following:

- a. Capability to perform all or most aspects of the project, such as planning, environmental evaluations, financial analysis, architectural design, and mechanical, electrical, and civil engineering.
- b. Recent experience in airport projects comparable to the proposed project.
- c. Reputation for personal and professional integrity and competence.
- d. Evidence that consultant has established and implemented an Affirmative Action Program.
- e. Key personnel's professional background and caliber and availability for the proposed project.
- f. Current workload.
- g. Recent experience in special areas associated with the project such as energy conservation and life-cycle costing.
- h. Capability to conduct a value engineering study for projects that are particularly complex or have unique features. It is recommended that value engineering be one of the criterion for large, complex projects, such as terminal buildings, where the estimated cost is \$1 million or more. The savings that result from a value engineering study as a rule are 3 to 5 percent of construction costs. On the other hand, the cost of a value engineering study is approximately 0.2 to 0.4 percent of construction costs.
- i. Demonstrated ability to meet schedules or deadlines.
- j. Capability to complete projects without having major cost escalations or overruns.
- k. Qualifications and experience of outside consultants regularly engaged by the consultant under consideration.

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1. Quality of projects previously undertaken.

m. Familiarity with the proximity to the geographic location of the project.

n. Knowledge of FAA regulations, policies, and procedures.

o. Capability of a branch office which will do the work to perform independently of the home office, or conversely, its capability to obtain necessary support from the home office.

p. Demonstrate an understanding of the project's potential problems and the sponsor's special concerns.

q. Degree of interest shown in undertaking the project.

r. Capability to incorporate and blend aesthetic and architectural concepts with the project design while accomplishing the basic requirements that transportation facilities be functional, safe, and efficient.

s. Capability to furnish qualified inspectors for construction inspection.

2-8. SELECTION PROCEDURES.

The following selection procedures are recommended for projects involving Federal airport grants: An equivalent State or sponsor qualifications-based requirement may be used.

a. The selection board should review the nature of the proposed project and the general scope of services to be procured in order to ensure an understanding of the project requirements and the qualifications needed by the consultant.

b. The board should develop the selection criteria and the evaluation system to be used in preparing a preselection list of consultants who are best qualified for the project and in determining the final selection.

c. To obtain experience and qualification data from potentially qualified consultants and to ensure the broadest publicity concerning the sponsor interest in obtaining consultant services, public announcements for all projects should be advertised in local newspapers with a wide circulation and national trade journals and magazines. The public announcement should include such information as a description of the proposed project and its location, a description of the services to be procured and the estimated construction cost. The announcement should also invite consultants to submit their experience and qualification data relating to the proposed project. The

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request for qualifications may not contain a request for any type of pricing data, including workhours.

d. Sponsors may also send the public announcements directly to known, potentially qualified consultants to determine their interest in the project and to request their experience and qualification data.

e. Affirmative steps should be taken to assure that small and minority firms are used whenever possible. These steps should include, but not be limited to, the following:

(1) Include qualified small business and minority firms on solicitation lists.

(2) Assure that small business and minority firms are solicited whenever they are potential sources.

(3) Divide the total requirements into small tasks, when economically feasible, to permit maximum small business and minority firm participation.

(4) Use the services and assistance of the Small Business Administration and the Disadvantaged Business Enterprise Agency of the Department of Commerce.

f. There are many sources from which the names of consultants can be obtained. These include: the Membership Directory of the Airport Consultants Council; the Professional Services Directory of the Civil Engineering Magazine, published by the American Society of Civil Engineers (ASCE); Directory of Engineers in Private Practice, published by the National Society of Professional Engineers (NSPE); directory from the American Institute of Architects (AIA); directory of American Consulting Engineers Council (ACEC); professional services directories published in aviation magazines and trade journals, other airport operators having undertaken similar projects; State boards of professional engineering registration; state aviation agencies; and local classified telephone directories. FAA Airports field offices may also furnish the names of consultants who have engaged in projects of similar nature in their areas of jurisdiction. However, FAA personnel will not recommend consultants or participated in the selection process. The address of regional Airports Divisions and Airports District/Field Offices having jurisdiction over specific geographic areas are listed in the current edition of AC 150/5000-3, *Address List of Region Airports Divisions and Airports District/Field Offices*.

g. From the experience and qualification data obtained from consultants, the selection board should prepare a preselection list of the

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best qualified consultants for further consideration. The list should consist of at least three consultants but preferable no more than five.

h. At this point, consultants who expressed an interest in the project but were not included on the preselection list should be notified that they were unsuccessful.

i. Detailed information on the qualifications and performance data of each of the consultants on the preselection list should be obtained. This can be achieved by contacting former clients to ascertain the quality of work, ability to meet schedules, cost control, and consultant-client relationship.

j. At this point, the scope of work and the services desired should be provided to each firm. The selection criteria, including their relative importance, that will be used to evaluate the proposals shall also be made available to each of the firms on the preselection list. The selection board should then obtain a general project proposal from each of the firms on the preselection list. The request for proposal may not contain a request for any cost information, such as total cost, cost per hour, workhours, or other pricing data. Requests for cost or pricing information, prior to discussions with the best qualified firm, to define the scope of services is contrary to Section 511(a)(16) of the AIAA and 49 CFR 18.36(t). The general project proposal will help the selection board recommend a consultant who can achieve design excellence, while successfully controlling time and costs, and who has the ability to understand and accomplish the specialized requirements of the project. The elements of a typical general project proposal should include the following:

(1) Team members, other key personnel, previous experience, and the role they will fill on the project. The qualifications and the time commitment of the project manager proposed for the project.

(2) Current workload.

(3) Proposed project schedule, including major tasks and target completion dates.

(4) Technical approach - a brief discussion of the tasks or steps that the consultant will undertake to accomplish the work described in the scope of work.

(5) Value Engineering - when a value engineering study is included in the selection criteria, a brief discussion of the consultant's capability, training, and experience to undertake such a study.

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k. Conduct interviews with each consultant on the preselection list. A telephone interview may be sufficient, however, a visit to the consultant's office to obtain a better idea of their capabilities is suggested whenever practical.

l. Review the experience and qualification data, the general project proposal, the interview results, and other relevant data. Using the selection criteria developed for the project, rank the qualified consultants in order of preference.

m. Initiate discussions with the consultant ranked number one to fully define the scope of work and services to be provided (see paragraph 2-10). After agreement on a detailed scope of services has been reached, the consultant should submit their cost proposal together with a detailed project proposal. Negotiations should then be conducted to reach a fair and reasonable cost, subject to the procedures indicated in Paragraphs 2-11 and 2-12.

n. Prepare a report recommending the consultant selected. The report should contain sufficient detail to indicate the extent of the review and considerations used for the recommendations.

o. The report should be forwarded to the sponsor's administrator or governing body authorized to review the recommendations of the selection board. The recommendations of the selection board should normally be accepted unless the report does not adequately support the recommendations. This will help to ensure complete fairness and open competition. If the recommendations are not accepted, the selection board should be reconvened until acceptable recommendations have been agreed on.

2-10. SELECTION PROCEDURES FOR ENVIRONMENTAL IMPACT STATEMENT (EIS) PREPARATION.

The procurement of consultant services to assist the FAA in preparing an EIS is somewhat unique because the regulations implementing the National Environmental Policy Act (NEPA) of 1969, (42 U.S.C. 4321 et seq.), require Federal agencies to prepare the EIS or select the contractor that prepares the EIS. Selection of a consultant shall, therefore, be made by the FAA from a preselected list of qualified consultants submitted by the sponsor. The sponsor and the FAA shall follow the selection procedures recommended in paragraph 2-8 with the following exceptions:

a. The proposed scope of work is to be provided by the FAA.

b. The FAA shall concur with the selection and evaluation criteria prepared by the sponsor.

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c. The FAA will be invited to participate with the sponsor in the interviews with consultants on the preselection list.

d. The sponsor may indicate to the FAA their ranking of the consultants on the preselection list after the interview process has been concluded. The FAA, however, is under no obligation to make a selection based on this ranking.

e. Using the previously Sponsor-FAA agreed upon selection and evaluation criteria, the FAA will independently evaluate and rank the consultants on the preselection list in order of preference, based on qualifications.

f. The FAA shall advise the Sponsor the FAA's ranking in order of preference, and the Sponsor shall advise and initiate discussions with the consultant ranked number one.

g. The FAA's involvement in the negotiations of the project cost shall be limited to making a reasonableness determination once a satisfactory cost proposal has been reached between the Sponsor and the consultant.

h. The FAA shall prepare a selection report for its records.